

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

One Financial Center
Boston, Massachusetts 02111
Telephone: 617/542-6000
Fax: 617/542-2241

Telephone: 202/434-7300
Fax: 202/434-7400
www.mintz.com

Fernando R. Laguarda

DOCKET FILE COPY ORIGINAL

RECEIVED

OCT - 9 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Direct Dial Number
202/434-7347
Internet Address
laguarda@mintz.com

October 9, 1998

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

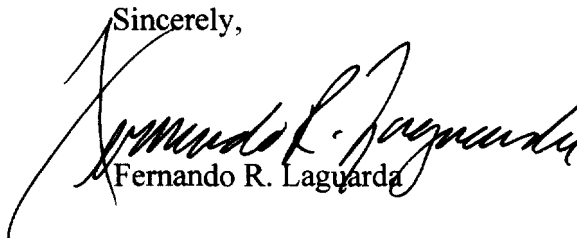
Re: CC Docket No. 98-146

Dear Ms. Salas:

Enclosed for filing please find five copies of the Reply Comments of At Home Corporation in the above-captioned proceeding. The filing was made electronically on October 8, 1998, and a copy of the receipt is attached for your reference as well. If you have any questions about the foregoing, do not hesitate to contact the undersigned.

Thank you.

Sincerely,



Fernando R. Laguarda

Enclosures

DCDOCS: 135721.1 (2wq1011.doc)

No. of Copies rec'd 024
List A B C D E



**The FCC Acknowledges Receipt of Comments From ...
At Home Corporation
...and Thank You for Your Comments**

Your Confirmation Number is: '1998108943037' 1

Date Received: Oct 8 1998

Docket: 98-146

Number of Files Transmitted: 1

File Name	File Type	File Size (bytes)
REPLY TO COMMENTS	Microsoft Word	70145

[Initiate a Submission](#) | [Search ECFS](#) | [Return to ECFS Home Page](#)

[FCC Home Page](#) | [Search](#) | [Commissioners](#) | [Bureaus Offices](#) | [Finding Info](#)

updated 03/25/98

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED

OCT - 9 1998

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)
)
Inquiry Concerning the Deployment of)
Advanced Telecommunications Capability)
to All Americans in a Reasonable and)
Timely Fashion, and Possible Steps)
to Accelerate Such Deployment)
Pursuant to Section 706 of the)
Telecommunications Act of 1996)

CC Docket No. 98-146

REPLY COMMENTS OF AT HOME CORPORATION

David Pine
Vice President, General Counsel
At Home Corporation
425 Broadway Street
Redwood City, CA 94063
650/569-5000

October 8, 1998

TABLE OF CONTENTS

	Page
INTRODUCTION AND SUMMARY	2
I. @HOME IS COMPETING TO PROVIDE NEW SERVICES THROUGH ITS CABLE PARTNERS	5
II. THE @HOME BROADBAND NETWORK REPRESENTS AN INNOVATIVE INVESTMENT TO BRING NEW SERVICES TO CONSUMERS IN A HIGHLY COMPETITIVE MARKET THAT IS FLOURISHING IN THE ABSENCE OF REGULATION	8
A. The "@Home Experience" is a Result of a Unique Network Strategy	9
B. @Home's Network is Tailored for the Delivery of High-Speed Services and Multimedia Content	11
III. THE COMMISSION SHOULD REFRAIN FROM REGULATING CABLE OPERATORS PROVIDING CABLE INTERNET SERVICE OVER THEIR NETWORKS	14
CONCLUSION.....	16

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Inquiry Concerning the Deployment of)	
Advanced Telecommunications Capability)	
to All Americans in a Reasonable and)	CC Docket No. 98-146
Timely Fashion, and Possible Steps)	
to Accelerate Such Deployment)	
Pursuant to Section 706 of the)	
Telecommunications Act of 1996)	

REPLY COMMENTS OF AT HOME CORPORATION

At Home Corporation (“@Home”) hereby replies to the comments filed in the above-captioned proceeding,^{1/} and supplements the record in connection with the Commission’s request for information pertaining to the status of deployment of advanced telecommunications capability.

These reply comments primarily provide the Commission with information about @Home’s service offerings and the backbone network that it designed and built to deliver high speed services via the to cable infrastructure and leased digital telecommunications lines. For the reasons set forth in more detail in the comments and reply comments of the National Cable Television Association (“NCTA”), @Home believes that imposing common carrier-like

^{1/} In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, FCC No. 98-187 (rel. Aug. 7, 1998) (“Notice”).

regulations on cable companies and other new entrants offering advanced facilities and services is not supported by the factual record and would fundamentally contradict the deregulatory goals of section 706 and the commitment to an unregulated Internet embodied in the Telecommunications Act of 1996.

INTRODUCTION AND SUMMARY

@Home is the leading provider of Internet services over the cable television infrastructure to consumers.^{2/} As a Silicon Valley start-up founded in 1995, @Home has grown to about 147,000 subscribers in today's fiercely competitive market.^{3/} The record in this proceeding clearly shows that cable operators and cable Internet services such as @Home are relative newcomers to this market.^{4/} RBOCs,^{5/} CLECs,^{6/} ISPs,^{7/} wireless providers,^{8/} and satellite

^{2/} @Home has distribution arrangements with 16 major cable companies in North America. TCI is the largest single shareholder of @Home, with approximately 39% of the equity and a 72% voting interest in the company.

^{3/} The record is replete with evidence of companies making substantial investments in advanced capabilities. See, e.g., Bell Atlantic Comments at 2; Bell South Comments at i, 17-37; Cincinnati Bell Comments at 8; GTE Comments at 10; SBC Comments at i, 5-7; US West Comments at 8-9; Allegiance Telecom Comments at 3; Association for Local Telecommunications Services Comments at 9; DSL Access Telecommunications Alliance at 4; Intermedia Communications Comments at 11; Northpoint Communications Comments at 1; Cellular Telecommunications Industry Association Comments at 13-23; Personal Communications Industry Association Comments at 13-23; Skybridge Comments at 2, 3; Teledesic Comments at 2; Teligent Comments at 4; Wireless Communications Association International Comments at 3-4.

^{4/} See Cablevision Comments at 2; Comcast Comments at 15; MediaOne Comments at 4, 5, 7, 8-10; NCTA Comments at 8-9, Appendix 1; Time Warner Comments at 4.

^{5/} See Bell Atlantic Comments at 2; Bell South Comments at i, 17-37; GTE Comments at 10; SBC Comments at i, 5-7; US West Comments at 8-9.

^{6/} See Allegiance Telecom Comments at 3; Association for Local Telecommunications Services Comments at 9; DSL Access Telecommunications Alliance at 4; Intermedia Communications Comments at 11; Northpoint Communications Comments at 1.

^{7/} See Comments of America OnLine; Comments of MindSpring.

companies^{9/} are all investing billions of dollars to deploy facilities and compete for customers. In addition, literally thousands of firms offer Internet access and online content to consumers.^{10/}

In this competitive marketplace, @Home stands out by providing an innovative solution that combines enhanced speed and connectivity, a managed network environment, and enriched content at a markedly competitive price. @Home's primary offering, the @Home service, allows residential subscribers to connect their personal computers via cable modems to a new high-speed Internet network that @Home itself designed, developed, and manages. This service enables subscribers to receive the "@Home Experience," which includes Internet service over hybrid fiber co-axial ("HFC") cable at peak transmission speeds over 100 times faster than typical dial-up services, "always on" connection, and rich multimedia programming through an user-friendly graphical interface.

The content foundation of the @Home Experience is provided by the Company's @Media group, which aggregates content, sells advertising to businesses and will provide premium services to @Home subscribers. @Home has specially designed its service to capitalize on the high speeds it makes possible, with more full-motion video and high quality audio than competing services delivered primarily over telephone lines. @Home does not block access to any Internet content. @Home subscribers can reach other Internet services, aggregators, and content, often at broadband speeds that were unavailable earlier. In fact, many @Home

^{8/} See Cellular Telecommunications Industry Association Comments at 13-23; Personal Communications Industry Association Comments at 13-23; Teligent Comments at 4; Wireless Communications Association International Comments at 3-4.

^{9/} See Skybridge Comments at 2, 3; Teledesic Comments at 2.

^{10/} See B. Esbin, INTERNET OVER CABLE, FCC Office of Plans and Policy Working Paper No. 30 (Aug. 1998), 18 ("OPP Cable Internet Paper") (by mid-1997, there were "more than 3,700 ISPs in North America alone.").

subscribers use the broadband service daily to access content and services provided by America Online, the Microsoft Network, Yahoo, Amazon.com, and more. Many services now design content expressly for @Home subscribers.

@Home is a product of the competitive market for Internet services spawned by the government's wise decision to avoid regulation of the Internet.^{11/} Only two years ago, in the landmark Telecommunications Act of 1996, Congress declared the policy of the United States to be the "preserv[ation] [of] the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation."^{12/} We are therefore surprised that some Internet providers, which have likewise benefited from this "hands off" approach, have asked the Commission to impose new and burdensome regulations on certain providers of advanced broadband infrastructure and services.^{13/}

The regulations proposed by these commenters – resale, interconnection, and unbundling of cable facilities – were designed to open up the monopoly local telephone networks. They are completely inappropriate for new entrants in a competitive marketplace taking the considerable risk of investing in interactive broadband networks for the delivery of advanced services.^{14/} The adoption of these regulations may benefit particular companies, particularly today's market leaders with powerful brand names in the nascent Internet access business,^{15/} but it will deprive

^{11/} Cf. Comments of Commercial Internet Exchange at 1-2.

^{12/} 47 U.S.C. § 230(b)(2).

^{13/} See, e.g., Comments of America Online at 4; Comments of MindSpring at 25. See also Comments of Circuit City at 2,9.

^{14/} See NCTA Comments at 27-30 (regulation is inappropriate for a competitive marketplace).

^{15/} The "Big Four" online service companies -- America Online, Compuserve (later acquired by AOL), Microsoft, and Prodigy -- served 84% of the total audience in mid-1997. See OPP Cable Internet Paper at 18.

companies like @Home of the incentives to invest in facilities and services and thereby reduce competition and consumer choice.^{16/} As NCTA convincingly demonstrated in its initial comments, such an outcome would be the antithesis of section 706, which reflects the desire of Congress to ensure the “deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans” and calls upon the Commission to “accelerate deployment” by “removing barriers to infrastructure investment.”^{17/} Imposing such regulatory constraints would in fact “turn section 706 on its head,”^{18/} stifling incentives to invest instead of simulating them.

@Home respectfully urges the Commission to resist the temptation to regulate and instead let the marketplace continue to serve as the engine of the broadband revolution.

I. @HOME IS COMPETING TO PROVIDE NEW SERVICES THROUGH ITS CABLE PARTNERS

@Home’s investment to bring innovative high-speed services to the market has resulted in an expansion of consumer choice and product differentiation -- at lower prices. @Home’s primary offering, the @Home service, offers the “@Home Experience” of high speed Internet access, “always on” availability, and rich multimedia programming through a user-friendly graphical interface. @Home subscribers have access to the widest array of Internet content, ranging from traditional on-line offerings to tailored services uniquely designed for the @Home environment. @Home subscribers can reach other Internet services, aggregators, and content providers. In fact, many @Home subscribers today use the service to obtain content and services

^{16/} See NCTA Comments at 30 (the Commission should recognize that competition will stimulate investment far better than regulation will).

^{17/} Pub. L. 104-104, § 706, 110 Stat. 153.

^{18/} NCTA Comments at 25.

provided by America Online, the Microsoft Network, Yahoo, Amazon.com, and others. @Home is negotiating with many of these content providers to make them part of the @Home experience for subscribers.

Many Internet services also design content expressly for @Home's subscribers. @Home packages advertising-supported content through its @Media offerings. @Media's programming services include:

Real-Time News and Entertainment Services. Continuously-updated headlines delivered in the News, Sports and Finance @Home channels, and video clips presenting top stories, sports highlights and movie previews. Current partners include Bloomberg, CNN Interactive, and the National Basketball Association.

Enhanced Search and Directory Services. Leading search and directory services integrated into the @Home Page. Current partners include Amazon.com, AutoConnect, BUYDIRECT, N2K, PC Connection, QVC, Realtor.com, Reel.com, and Travelocity.

High-Speed Multiplayer Gaming. Download and play popular Internet games. Game servers are co-located on the network backbone, offering multiplayer online games from SegaSoft.

Digital Audio Services. Near-CD-quality audio on various music, talk and event channels (e.g., jazz, rock and 24-hour sports talk) via @Home's TuneIn service. Users can simultaneously listen to TuneIn and browse the Internet. Current partners include Bloomberg Radio, SportsLine, and Spinner.

Software Purchase with Real-Time Downloading. Purchase and download software titles at speeds substantially faster and with greater reliability than a typical dial-up modem. @Home has partnered with Release Software to create the "SoftwareNow" store. In addition to faster than normal download speeds, SoftwareNow gives @Home users multiple, unique purchase options including a "Try-Before-Buy" option and rental software.

Enhanced Search and Directory Services. Leading search and directory services integrated into the @Home portal. Current @Media partners include Inktomi Corporation and Looksmart International Limited.

@Home also facilitates online transactions and services for @Home subscribers. In all, the

@Home solution provides an exciting mix of traditional and enriched content in a package

tailored to enhance the Internet's functionality as an environment for information, entertainment, education, and commerce.

@Home has entered into distribution arrangements for the @Home service with sixteen cable companies in North America whose systems pass approximately 57.3 million homes: Telecommunications, Inc. ("TCI"), Cablevision Systems Corp. ("Cablevision"), Comcast Corporation ("Comcast"), Cox Communications, Inc. ("Cox"), Rogers Cablesystems Limited, Shaw Cablesystems Ltd., Bresnan Communications Company, Century Communications Corp., Cogeco Cable, Inc., Garden State Cable, Insight Communications, Jones Intercable, Inc., Lenfest Communications, Inc., Marcus Cable Operating Company, L.P. ("Marcus"), and InterMedia Partners IV L.P. As of June 30, 1998 approximately 7.9 million of these homes were passed by upgraded two-way HFC cable.^{19/} As of August, 1998, @Home had approximately 147,000 cable modem subscribers in the United States.^{20/}

For businesses, @Work provides end-to-end managed connectivity for Internet, intranet and extranet solutions over a variety of transport media including the cable infrastructure and leased digital telecommunications lines. In addition, @Work is developing a next generation platform to support networked business applications and other value-added data networking solutions. In order to accelerate deployment of @Work's connectivity solutions in metropolitan

^{19/} TCI and the other @Home partners are expected to complete the upgrade of systems passing a majority of their homes within five years.

^{20/} Cities served include: TCI: Arlington Heights, IL; Baton Rouge, LA; Dallas, TX; Denver, CO; Hartford, CT; Pittsburgh, PA; San Francisco Bay Area, CA; Seattle, WA; Marcus: Fort Worth, TX; InterMedia: Greenville, SC; Nashville, TN; Spartanburg, SC; Cox: Hampton Roads, VA; Hartford, CT; Oklahoma City, OK; Omaha, NE; Orange County, CA; Phoenix, AZ, Providence, RI; San Diego, CA; Comcast: Atlanta, GA; Baltimore, MD; Detroit, MI; Chesterfield, VA; Orange County, CA; Philadelphia, PA; Sarasota, FL; and Cablevision: Norwalk, CT.

areas throughout the United States, the company has established a strategic relationship with TCG to provide targeted co-location and local telephone circuits for infrastructure and subscriber connectivity. The company currently offers two services: @Work Internet and @Work Remote.

The @Work Internet service delivers Internet connectivity to commercial enterprises over leased digital telecommunications lines and HFC cable. Peak data transmission speeds ranges from 56 Kbps to 45 Mbps. The service is currently available in numerous metropolitan markets including Chicago, Los Angeles, New York, Phoenix, Orange County, San Diego, San Francisco, Seattle, and Washington, DC. Business users in these markets connect directly to the @Work Internet service through either two-way HFC cable facilities or TCG facilities.

The @Work Remote service is a Virtual Private Networking (“VPN”) for corporations to extend their Local Area Networks (“LANs”) to telecommuters and branch offices via the cable infrastructure. @Home develops, deploys and markets @Work Remote in areas served by TCI, Cox and Comcast. The service also includes the network equipment and software needed to connect the corporate LAN securely to the @Home broadband network via high-bandwidth local telephone circuits.

II. THE @HOME BROADBAND NETWORK REPRESENTS AN INNOVATIVE INVESTMENT TO BRING NEW SERVICES TO CONSUMERS IN A HIGHLY COMPETITIVE MARKET THAT IS FLOURISHING IN THE ABSENCE OF REGULATION

@Home was founded on the premise that the cable infrastructure could provide a fast, cost-effective Internet delivery mechanism for the highly competitive “last mile.”^{21/} But high

^{21/} As the comments demonstrate, numerous industries are competing to provide broadband facilities in the last mile. See BellSouth Comments at 3-31 (arguing that the “last mile” is intensely competitive); USTA Comments at 1 (urging the Commission to allow market forces to guide the deployment of services); U S West Comments at 19 (urging the Commission to resist

speed in the last mile is not possible without a network specially designed to capitalize on the potential of cable's broadband facilities. @Home has made a substantial and continuing investment in a "parallel Internet" that enables the @Home to avoid the problems of Internet congestion and architectural bottlenecks beyond the "last mile" that often limit the speed of other Internet access services.

As described above, @Home subscribers access the broadest array of Internet content, from America Online to Amazon.com, as well as enriched packages uniquely designed for the cable Internet service. Furthermore, @Home does not discriminate in its network peering policies, and interconnection with its backbone network is possible at many public and private facilities. Proposals for "unbundling" the cable plant therefore overlook the critical role played by @Home in the market. Applying an unbundling requirement to cable operators will not deliver high speeds to any other Internet service provider. It will, however, deter the very investment that section 706 seeks to foster.

A. The "@Home Experience" is a Result of a Unique Network Strategy

The @Home experience is the product of the company's commitment to a network strategy that is unique among providers of Internet and online services. This strategy has three principles: moving data closer to the user; end-to-end network management; and "always-on" service.^{22/}

To move data closer to the user the @Home broadband network utilizes caching and replication technologies. Local caching reduces backbone network traffic, enabling the @Home

imposing regulation); Comcast Comments at 9-10; MediaOne Comments at 4-5 (\$5.6 billion investment by the year 2000); Time Warner Comments at 4.

^{22/} A schematic representation of the @Network architecture is attached at Tab A.

broadband network to overcome a fundamental weakness of the Internet-duplicative data transfers. For example, when a subscriber downloads a video clip from a Web site, the user must “pull” data across the Internet from that Web site to the user’s ISP and finally to the user’s computer. If the user’s neighbor requests the same video clip from that Web site, the neighbor must pull the same data across a similar path. In contrast, @Home’s approach would move the video clip over its high-speed backbone only once in a given geographic area and retain it in a local cache near the user’s home where it could be accessed by every subscriber within that area without retransmission over the backbone.

End-to-end network management is achieved through @Home’s proactive network quality, service and performance management systems. The @Home broadband network provides service monitoring visibility from the company’s servers (or content partners’ servers) across the backbone and all the way to the subscriber’s home. Because the @Home broadband network is centrally managed, the company can dynamically identify and enhance network quality, service and performance, or address issues before they affect the user experience.

Finally, the @Network takes advantage of continuous connections. Unlike switched technologies such as dial-up and Integrated Services Digital Network (“ISDN”) technologies, the @Home broadband network is “always on.” The user is always connected to the Internet as long as the computer and cable modem are on. This eliminates the need for a time-consuming connection process, as with a dial-up service, and changes the way the customer uses the Internet.^{23/} As subscriber penetration increases, cable operators have multiple cost-effective

^{23/} Users residing in close proximity to each other share high-bandwidths access lines (much like corporate LANs) which may limit the effective bandwidth that is available to a given subscriber at a given time. However, this shared connection is particularly efficient and well suited to the

alternatives to increase capacity, including allocating additional 6 MHz channels for the @Home service or reducing the number of subscribers sharing a given bandwidth by adding nodes, with each node serving a smaller number of subscribers over the same fiber-optic infrastructure.

B. @Home's Network is Tailored for the Delivery of High-Speed Services and Multimedia Content

To deliver high speed connections, @Home operates its own private national backbone, which consists of a network of high-speed asynchronous transfer mode ("ATM") communications services that the company leases to connect its Regional Data Centers ("RDCs") and regional networks with content providers and the Internet. These services currently operate at a speed of 45 Mbps and can be upgraded to 155 Mbps or higher. This backbone can be viewed as a high-speed "parallel Internet" that connects via @Home's routers to the Internet at multiple network access points ("NAPs") with "Tier-One" peering status, which permits the company to exchange Internet traffic with other nationwide ISPs.

The RDCs act as service hubs for defined geographic regions, such as major metropolitan areas, providing key services, including email, news groups and chat facilities, to subscribers, managing network performance proactively, replicating media partners' content and applications, and providing a cost-efficient infrastructure to cache and multicast data throughout a region and to house local content and subscribers' web pages. As of October 8, 1998, nineteen areas had their own RDCs. To provide the @Home service throughout North America, numerous additional RDCs will have to be deployed.

sporadic nature of Internet traffic, where browsing tends to consume bandwidth in discrete bursts intermixed with periods of inactivity.

The regional networks consist of network routers and switches that interconnect @Home's RDCs and its national backbone to multiple cable headend facilities at speeds of 45 Mbps to 155 Mbps. These networks generally take advantage of cable operators' fiber optic infrastructures that are normally used to transport cable television signals from a consolidated master headend facility to other headends within a region.

The cable system headends are connected to each RDC through the regional network. In order to move data as close to the subscriber as possible and to avoid repetitive transmission of the same data, the headends employ high-performance caching servers that store frequently accessed content locally, thereby greatly reducing the amount of data transmission (and corresponding transport costs) in higher layers of the network. In addition, local caching servers can compile far more comprehensive usage data than is normally attainable on the Internet, which can be used for network troubleshooting, fine-tuning performance and tailoring the @Home service to the needs of its customers.

The last leg of the network connection is from the headend to the consumer over a cable operator's HFC cable system. Multiple fiber optic lines carry the signal from the headend out to cable "nodes" in each neighborhood, which in turn connect through traditional coaxial cable to the home. These fiber optic nodes typically service from 300 to 2,000 homes in a relatively modern cable system. In such a system, each television channel requires 6MHz of the 450-750 MHz of total system capacity. Downstream transmission of the @Home service utilizes a similar channel. Upstream transmission, however, utilizes a frequency range that is more prone to interference than downstream channels, and is not otherwise used for broadcast purposes.

In the home, a cable modem connects to the cable television coaxial wiring and attaches to the user's personal computer via standard Ethernet connections. While the peak data

transmission speed of a cable modem depends on the specific model -- and can approach 10 to 27 Mbps downstream and 0.7 to 10 Mbps upstream -- the performance that subscribers actually experience is often constrained by the capacity of their personal computers, the capacity of the server being accessed, and the type of network architecture utilized. Cable modems are sold by several vendors, including Motorola and

The cable industry has recently adopted a set of interface specifications for hardware and software to support the delivery of data services utilizing interoperable cable modems.^{24/}

@Home believes that these specifications, together with the agreement entered into with Intel Corporation in July 1997 relating to the development of “plug and play” modems, will facilitate the growth of the cable modem industry and the availability of lower cost interoperable cable modems through retail channels.

Finally, @Home provides end-to-end network management through its Network Operations Center (the “NOC”). The NOC uses advanced network management tools and systems to monitor the network infrastructure 24-hours-a-day, 7-days-a-week, enhancing its ability to address performance bottlenecks before they affect the user experience. From the NOC, the Company can manage the @Home broadband network from end-to-end, including the backbone, RDCs, regional networks, headend facilities, servers and other components of the network infrastructure to the user’s home.

^{24/} These specifications are collectively referred to as the Data Over Cable Service Interface Specification (“DOCSIS”). See NCTA Comments at 6-7.

III. THE COMMISSION SHOULD REFRAIN FROM REGULATING CABLE OPERATORS PROVIDING CABLE INTERNET SERVICE OVER THEIR NETWORKS

The comments of NCTA, Comcast, and Cablevision Systems Corporation provide compelling legal and factual evidence for rejecting the calls of AOL, MindSpring, Circuit City, and a handful of others to subject cable companies to regulations designed to break the century-old telephone monopoly. @Home need not repeat those arguments here.

We would note, however, that @Home's emergence as a provider of cable Internet service reflects the today's favorable investment climate, unfettered by regulation, for providers of advanced services and the network infrastructure necessary to deliver them. In the broadband arena, different network infrastructures are emerging as providers compete to find the best model to serve customers. For example, the cable "model" is that of a shared local area network ("LAN"). Satellite providers, on the other hand, offer efficient data multicasting, and DSL brings the customer dedicated broadband local loops. Prices vary across the board for each of these offerings.

Consumers will be best served if each of these broadband models can compete freely and providers can differentiate themselves on the basis of features and services as well as price. If the Commission adopts the proposals of AOL and MindSpring, however, consumers will be denied these choices. As TCI notes in its reply comments, those who call for imposing new regulatory burdens on cable networks would turn cable plant into a commodity and remove cable operators' incentives to invest the billions of dollars necessary to add interactivity and other capabilities to cable systems, contrary to the goals of Congress and this Commission.^{25/} It does

^{25/} Reply Comments of Tele-Communications, Inc. at 9, 12-13.

not make economic or business sense for cable companies and @Home to invest the substantial sums necessary to deliver broadband services if the government requires the company to provide the benefits of its network investment to competitors who are unwilling or unable to make similar investments.

The absence of regulatory constraints on network and service providers encourages risk-taking by rewarding companies that are willing to invest in, deploy and market new services. The current policy framework also discourages “free-riding” by ensuring that investors in new network infrastructures, technologies and services can decide for themselves how to reap the benefits and rewards of their investment. Since no provider currently can count on the government to guarantee them access to advanced data infrastructures and capabilities, all providers are encouraged to pursue technological innovation.

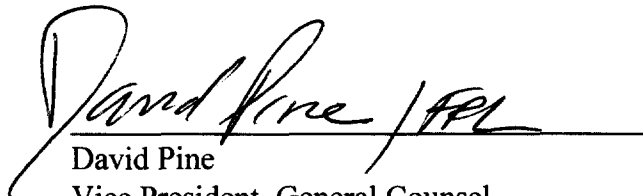
The success which @Home is enjoying in the marketplace is a testament to the success of policies that reward risk-taking. The Commission should reject arguments by those who, having benefited from a “hands off” approach, now advocate a burdensome and inappropriate regulatory framework that would deter investment. Government-enforced guaranteed access to cable infrastructure would reward companies that opted not to make the risky investments in infrastructure that makes high speed, multimedia services possible. Such an approach will distort the marketplace and stifle efficient and innovative business strategies that are presently delivering a host of new services and technologies to consumers. This proceeding, initiated to promote infrastructure investment and the widespread availability of new services, should not lead to new regulations that will have precisely the opposite effect.

CONCLUSION

@Home is providing innovative cable Internet solutions in a competitive marketplace. Should the Commission decide to resort to regulating this highly dynamic and still emerging marketplace, the results can easily be predicted. Regulation will stifle innovation, reduce the number and quality of new offerings, and detract from consumer choice. For the foregoing reasons, the Commission should stay the course and refrain from imposing constraints on service offerings and obligations on network deployment.

Respectfully submitted,

AT HOME CORPORATION

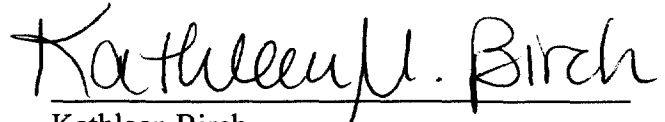


David Pine
Vice President, General Counsel
At Home Corporation
425 Broadway Street
Redwood City, CA 94063
650/569-5000

October 8, 1998

CERTIFICATE OF SERVICE

I, Kathleen Birch, hereby certify that on October 8, 1998, I caused to be served by hand copies of the foregoing "Reply Comments" on the following:


Kathleen Birch

The Honorable William E. Kennard*
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

The Honorable Susan P. Ness*
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

The Honorable Gloria Tristani*
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

The Honorable Michael Powell*
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

The Honorable Harold Furchgott-Roth*
Federal Communications Commission
1919 M Street, N.W., Room 822
Washington, D.C. 20554

Thomas C. Power*
Office of Commissioner William E. Kennard
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Helgi Walker*
Office of Commissioner Harold Furchgott-Roth
Federal Communications Commission
1919 M Street, N.W., Room 822
Washington, D.C. 20554

Anita Wallgren*
Office of Susan P. Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Rick Chessen*
Office of Commissioner Gloria Tristani
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Jane Mago*
Office of Commissioner Michael Powell
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

John T. Nakahata*
Chief of Staff
Office of Chairman Kennard
Federal Communications Commission
1919 M Street, N.W.
Room 814
Washington, D.C. 20554

James Casserly*
Senior Legal Advisor
Office of Commissioner Ness
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, D.C. 20554

Paul Gallant*
Legal Advisor
Office of Commissioner Tristani
Federal Communications Commission
1919 N Street, N.W.
Room 826
Washington, D.C. 20554

Kevin Martin*
Legal Advisor
Office of Commissioner Harold
Furchtgott-Roth
Federal Communications Commission
1919 M Street, N.W.
Room 802
Washington, D.C. 20554

Kyle D. Dixon*
Legal Advisor
Office of Commissioner Powell
Federal Communications Commission
1919 M Street, N.W.
Room 844
Washington, D.C. 20554

Deborah Lathen*
Chief
Cable Services Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 900
Washington, D.C. 20554

Robert M. Pepper*
Chief
Office of Plans and Policy
Federal Communications Commission
1919 M Street, N.W.
Room 822
Washington, D.C. 20554

Dale N. Hatfield*
Chief
Office of Engineering and Technology
Federal Communications Commission
2000 M Street, N.W.
Room 230
Washington, D.C. 20554

Stagg Newman*
Office of Plans and Policy
Federal Communications Commission
1919 M Street, N.W.
Room 822
Washington, D.C. 20554

Kathryn C. Brown*
Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 500
Washington, D.C. 20554

John W. Berresford*
Senior Antitrust Attorney, Industry Analysis
Division
Common Carrier Bureau
Federal Communications Commission
2033 M Street, N.W.
Room 502C
Washington, D.C. 20554

Richard Welch*
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

M. Robert Sutherland
Michael A. Tanner
Stephen L. Earnest
BellSouth Corporation
1155 Peachtree Street, N.E., Suite 1700
Atlanta, GA 30309

John F. Raposa
GTE Service Corporation
600 Hidden Ridge, HQE03J27
Irving, Texas 75038

James D. Ellis
Robert M. Lynch
Durward D. Dupre
Darryl W. Howard
SBC Communications Inc.
One Bell Plaza, Room 3703
Dallas, Texas 75202

Barbara Esbin*
Associate Bureau Chief
Cable Services Bureau
Federal Communications Commission
Room 918
2033 M Street, N.W.
Washington, D.C. 20554

ITS*
1231 20th Street, N.W.
Washington, D.C. 20554

John T. Lenahan
Michael S. Pabian
Counsel for Ameritech
Room 4H82
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196-1025

Robert H. Griffen
Bell Atlantic Corp.
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

Gary M. Epstein
Karen Brinkmann
James H. Barker
Johanna Mikes
Latham & Watkins
1001 Pennsylvania Avenue, N.W., Suite 1300
Washington, D.C. 20004-2505

William T. Lake
John H. Harwood II
Lynn R. Charytan
Jonathan J. Frankel
Matthew A. Brill
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

Joseph W. Waz, Jr.
Vice President, External Affairs &
Public Policy Counsel
Comcast Corporation
1500 Market Street
Philadelphia, PA 19102

Christopher W. Savage
James F. Ireleand
Karlyn D. Stanley
Cole, Raywid & Braverman, L.L.P.
Comcast Corporation
1919 Pennsylvania Avenue., N.W., Suite 200
Washington, D.C. 20006

David Ellen, Esq.
Cablevision Systems Corp.
One Media Crossways
Woodbury, New York 11797

Michael E. Katzenstein
Vice President and General Counsel
OpTel, Inc.
1111 W. Mockingbird Lane
Dallas, Texas 75247

Peter D. Keisler
Michael Doss
James P. Young
Sidley & Austin
1722 Eye Street, N.W.
Washington, D.C. 20006

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036

R. Michael Senkowski
Jeffrey S. Linder
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Lawrence E. Sarjeant
Linda Kent
Keith Townsend
John Hunter
1401 H Street, N.W., Suite 600
Washington, D.C. 20005

Robert B. McKenna
Jeffrey A. Brueggeman
U S WEST, Inc.
1010 19th Street, N.W.
Washington, D.C. 20036

James R. Coltharp
Senior Director, Public Policy
Comcast Corporation
1317 F Street, N.W.
Washington, D.C. 20004

Susan M. Eid
David Rubashkin
Cameron Graham
MediaOne Group, Inc.
1919 Pennsylvania Avenue, N.W., Suite 610
Washington, D.C. 20006

Terrence J. Ferguson
Senior Vice President and Special Counsel
Level 3 Communications, LLC
3555 Farnam Street
Omaha, Nebraska 68131

Kevin Sievert
Glen Grochowski
MCI Communications Corporation
400 International Parkway
Richardson, Texas 75081

Catherine R. Sloan
David N. Porter
Richard L. Fruchterman, III
Richard S. Whitt
Attorneys for Worldcom, Inc.
1120 Connecticut Avenue, N.W., Suite 400
Washington, D.C. 20036

Riley M. Murphy
Executive Vice President & General Counsel
Charles H.N. Kallenbach
Vice President - Regulatory Affairs
e.spire Communications, Inc.
133 National Business Parkway
Suite 200
Annapolis Junction, MD 20701

George Vradenburg, III
William W. Burrington
Jill A. Lesser
Steven N. Teplitz
America Online, Inc.
1101 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

Brian Conboy
Thomas Jones
Willkie Farr & Gallagher
Attorneys for Time Warner Cable
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036

Henry Goldberg
W. Kenneth Ferree
Goldberg, Godles, Wiener & Wright
Attorneys for OpTel, Inc.
1229 Nineteenth Street, N.W.
Washington, D.C. 20036

Mark C. Rosenblum
Ava B. Kleinman
James H. Bolin, Jr.
Attorneys for AT&T Corp.
295 North Maple Avenue
Room 3252J1
Basking Ridge, NJ 07920

Anthony C. Epstein
Jenner & Block
601 Thirteenth Street, N.W.
Washington, D.C. 20005

Kecia Boney
Dale Dixon
Lisa B. Smith
Attorneys for MCI Communications Corporation
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006